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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF LABOR & ECONOMIC GROWTH
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COMMISSIONER

Report On Insurance Regulatory Fees

Fiscal Year Ended September 30, 2007

May 2008

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Office of Financial and Insurance Regulation

Historically, government regulated insurance, financial institutions (banking, consumer finance and credit unions), and securities separately, and a Depression-era federal law known as the Glass Steagall Act (adopted in response to the bank failures following the 1929 stock market crash) specifically prohibited a bank from offering securities and insurance products or engaging in commercial banking. The federal Financial Services Modernization Act of 1999, also known as Graham Leach Bliley Act (GLBA) repealed the Glass Steagall Act barriers and allowed financial service holding companies to engage in any activity financial in nature so long as it did not cause a safety or soundness issue to the overall financial system.

With changing complexities in insurance, banking and securities companies, the old-fashioned regulatory model could not keep pace with the marketplace. Michigan became the first state to coordinate the regulation of insurance, financial institutions and securities into one governmental agency consistent with financial services modernization. Effective April 2000, the Office of Financial and Insurance Services (OFIS) was created by executive order to consolidate the Bureaus of Insurance and Financial Institutions, and the Securities Division of the former Corporations, Securities and Land Development Bureau. The creation of OFIS allowed Michigan regulators to become adept at interpreting and regulating complex services entities that did not exist a few years ago.

On February 1, 2008, Governor Granholm signed Executive Order 2008-02, which became effective April 6, 2008. The order changed the official name of OFIS to the Office of Financial and Insurance Regulation (OFIR) to reflect its regulatory and consumer protection focus.

Today, OFIR is responsible for the regulation of Blue Cross Blue Shield, 27 HMOs, 139 banks, 169 domestic insurance companies, 233 credit unions, 1,303 foreign insurance companies, 1,750 investment advisers, 2,100 securities broker-dealers, 7,772 consumer finance lenders, 146,419 insurance agents, and 115,000 securities agents. OFIR licenses or charters these entities, conducts safety, soundness, and compliance examinations, and protects and educates Michigan consumers of financial services. Through adaptability and consumer communication, the Commissioner and staff of the OFIR strive to be the preeminent financial regulators in the United States.

Overseeing OFIR is Commissioner Ken Ross, who was appointed by Governor Jennifer M. Granholm effective February 22, 2008.

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Introduction

Insurers pay the cost of regulation in Michigan through an annual fee that is assessed by the Office of Financial and Insurance Regulation (OFIR) called the Insurance Regulatory Fee. Authority to assess, collect and deposit the Insurance Regulatory Fee into a restricted revenue account in a restricted purpose fund was enacted by 1994 PA 228. MCL 500.224(4) requires insurers to pay the Insurance Regulatory Fee instead of reimbursing OFIR for the direct costs and expenses of regulation incurred by each insurer.

The enactment of this assessment method benefits both insurers and OFIR as it provides OFIR a constant funding source to pay for its insurance regulatory activities, and it eliminated the cyclical nature of the cost of regulation to the insurers. Fees collected and deposited into this fund are only to be spent on insurance regulatory purposes under the Commissioner's authority, pursuant to a legislative appropriation. Unspent money remaining in this fund does not lapse to the State's general fund; it carries forward to the next fiscal year pursuant to MCL 500.225. The ending balance of the Insurance Regulatory Fee Fund at the close of fiscal year 2007, September 30, 2007, was $8,002,051.

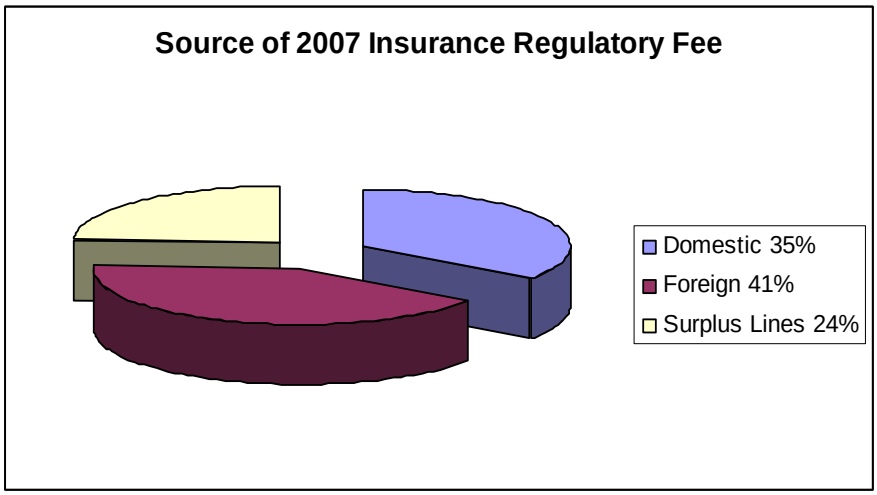
Purpose of the Report

This report covers Fiscal Year 2007, the period from October 1, 2006 through September 30, 2007. MCL 500.224a specifies that annually, beginning June 1, 1995, the Commissioner shall report to the Senate and House of Representatives standing committees on insurance issues regarding the following information:

- The amount of revenues raised by the Insurance Regulatory Fee.
- How the regulatory fee collection was spread among domestic, foreign, and alien insurers.
- How the fees were spent in regulating the domestic, foreign, and alien insurance industry.
- Whether new regulatory policy is needed to better protect the citizens of Michigan.

Insurance Regulatory Fee Revenue

The Insurance Regulatory Fee revenue collected by OFIR in Fiscal Year 2007 was $13,022,158.



Michigan's 169 domiciled insurers (those which formed in Michigan) paid 35% of the total Insurance Regulatory Fee or $4.6 million. Approximately 1,300 foreign insurers, those which formed in a state other than Michigan, paid 40% of the total or $4.3 million, while the non-admitted surplus lines insurers paid 24% or $3.1 million of the Insurance Regulatory Fee.

Expenditures Funded with the Insurance Regulatory Fee

Statutory Expenditure Limitation

Pursuant to MCL 500.224(4)(a)(v), the total Insurance Regulatory Fee shall not exceed 80% of the gross appropriation for OFIR's insurance regulatory operations for a fiscal year. This is calculated as the difference between the gross appropriation for the insurance operations for the fiscal year and any restricted revenues, other than the regulatory fee itself as identified in the gross appropriation. This statutory requirement was met by OFIR as the Fiscal Year 2007 gross insurance regulatory appropriation was $27,358,778, and the Insurance Regulatory Fee restricted revenue was 77% or $21,104,704 of the total appropriated restricted revenue.

Fiscal Year 2007 Calculation of Statutory Limitation on Appropriated Insurance Regulatory Fee	Amount
Restricted Revenue Appropriated to Fund Insurance Regulatory Operations:	
Insurance Continuing Education Fees	$ 830,925
Multiple Employer Welfare Arrangement Fees	$ 67,774
Insurance Regulatory Fee	$21,104,704
Insurance Licensing and Regulation Fee	$ 5,355,375
Gross Fee Appropriation for Insurance Operations	$27,358,778
Gross Appropriation X 80% = Ceiling	$21,887,022
Less: Insurance Regulatory Fees Appropriated	$21,104,704
Excess Statutory Ceiling Over Appropriated Insurance Regulatory Fee	$ 782,318

Qualified Expenditures

Limitation

Expenditures funded by the Insurance Regulatory Fee in Fiscal Year 2007 totaled $11,363,896. MCL 500.224(5) requires that not less than 67% of the Insurance Regulatory Fee revenue be spent on the regulation of financial conduct, health care, and health insurance for persons under the Commissioner's authority in Michigan. The percentage of qualifying financial conduct, health care and health insurance expenditures in Fiscal Year 2007 was 91% or $10,380,468 of the total expenditure, thus meeting the statutory requirement on expenditures from the fund.

OFIR Insurance Regulatory Operations

Office of the Commissioner

The Office of the Commissioner is comprised of the Commissioner, Chief of Staff, Office of General Counsel, Policy Division and the OFIR Human Resources and Budget Division. The Commissioner provides executive direction to OFIR and is appointed by the Governor.

The Human Resources and Budget Division is responsible for matters relating to budget, revenue, expenditure, human resources, state vehicle services, contracts and purchasing, and technology.

The Office of General Counsel (OGC) supports the Commissioner in the implementation and enforcement of numerous statutes designed to protect the citizens and industries of Michigan. Among those are statutes regulating insurance, including health care, lending, and securities. OGC provides attorney services to the agency in nine major areas: enforcement actions; formal hearings; research and advice; orders, rules, and bulletins; health benefits claims; liaison with the Office of the Attorney General; Freedom of Information Act; State Employees Retirement System; and, special projects.

The Patient's Right to Independent Review Act (PRIRA) was enacted in October 2000 to provide a system by which individuals can appeal the denial of health benefit claims. The Legislature determined that the importance of health care claims warranted a special, expedited procedure to ensure that individuals entitled to benefits are paid swiftly. OGC attorneys work with staff in the Health Plans Division in reviewing and preparing orders on PRIRA cases. PRIRA reviews are conducted on claim denials by commercial insurers, health maintenance organizations, and BCBSM. In general, adverse determinations made by non-governmental self-funded plans are not subject to review under the PRIRA statute.

The PRIRA reviews under these statutes determine whether an adverse determination by a health plan is consistent with the language of the policy or certificate of coverage under which an individual received health care benefits. The review also determines whether the policy provisions are consistent with state law. In some cases, the adverse determinations are based on medical questions. In such cases, the medical information is submitted to an independent medical review organization (IRO) where it is analyzed by a physician specializing in the relevant medical field. The IRO analysis and recommendation is then submitted to OFIR and made a part of the Commissioner's decision.

Each year, the Health Plan Division's staff prepares, and OGC attorneys review and approve, numerous PRIRA and IRO orders for final approval and signature by the Commissioner. Parties may appeal the Commissioner's decisions to the Circuit Court, but only 3 to 5 appeals are filed each year. In a typical year, claimants receive hundreds of thousands of dollars.

The review process under these statutes is designed to produce a decision quickly. While both the individual and the insurer are permitted to submit any material they believe is relevant to the dispute, there is no hearing. Independent medical reviews must be completed within 14 days. The entire review process should be completed within 30 days of receipt of a request for review. In cases where urgent medical needs are involved, an expedited review process will provide a decision within 72 hours.

The Policy Division is responsible for managing the development and implementation of OFIR's legislative agenda. It provides support in the areas of research, analysis, and public policy development. The Division analyzes legislation, drafts proposals for legislation, and compiles and disseminates information on current issues facing the financial services industry, consumers of that industry, and federal and state regulators.

Enterprise Monitoring Division

The Enterprise Monitoring Division is responsible for conducting on-site financial examinations of the books and records of approximately 170 insurers domiciled in Michigan and other Michigan entities. These entities include property and casualty insurance companies, life and health insurance companies, farm mutuals, government self-insurance pools, health maintenance organizations, alternative finance and delivery systems (AFDS) for limited health care benefits, legislatively created entities, and multiple employer welfare arrangements.

Examinations are conducted in accordance with guidelines and procedures recommended by the National Association of Insurance Commissioners (NAIC) and the laws, rules, and regulations prescribed by OFIR. The Division completed on-site financial examinations of 46 insurance entities during Fiscal Year 2007, including several examinations of large, multi-state insurers. At the conclusion of each examination, a Report of Examination is issued which presents findings concerning the entity's financial condition, management, and operations.

The Insurance Examination staff consists primarily of field examiners in full-time travel status. Examiners work on-site at insurance company offices throughout the state, and periodically in other states. There are six examination teams, each headed by an examiner-in-charge. The teams conduct examinations of company books and records to ensure companies are operating in compliance with law and are financially safe, reliable, and entitled to public confidence. An office-based risk manager is responsible for coordinating the planning phase of the examinations.

In addition to internal examination staff, outside contractors are utilized for two purposes: (1) to conduct examinations of insurers that elect to maintain their books and records outside of Michigan [by statute, insurers may do this if they agree to pay certain costs associated with the examination in addition to the regulatory fee]; and (2) to provide actuarial opinions as needed to meet examination requirements.

Supervisory Affairs and Insurance Monitoring Division

The Supervisory Affairs Division regulates the financial aspects of insurers, and most market conduct aspects of health maintenance organizations and alternative financing and delivering systems. It routinely evaluates the financial trends and condition of insurance entities that are authorized to transact insurance in Michigan to ensure they remain safe, reliable and entitled to public confidence. Oversight of licensed insurers is important in meeting NAIC Accreditation standards.

It evaluates the financial condition of regulated insurance entities domiciled in Michigan and of some foreign insurers. Transactions involving the affiliated companies of those monitored are reviewed and approved. In addition to evaluating the financial soundness of domestic insurers, the unit is also responsible for new applications for licensure, reviewing and making recommendations on some applications for requalification of licensure following a change in control of an insurer, acquisitions (Form A), redomestications, and corporate reorganizations of domestic insurers.

The evaluation of financial condition is accomplished primarily through analyzing and evaluating companies' annual and quarterly financial statements to determine whether they are financially safe, reliable and entitled to public confidence. The analyses identify when insurers are showing possible negative trends or key ratios that may indicate problems needing closer scrutiny.

Insurers that require monitoring are required to develop action plans to address the issues that may be causing the negative trends. Staff works closely with domestic insurers early in the process to correct the trends to try to avoid the need for more drastic regulatory actions. The first challenge faced when approaching the management and board of directors of an insurer showing negative trends is to convince them that the insurer has a problem. The insurer is required to develop a compliance/business plan and infuse additional capital. Other options include possible merger, placing restrictions on types or amounts of business permitted to be written, special deposits, supervision orders, work with regulators in other states, and/or other voluntary restraints and corrective actions developed and agreed to by the insurer and OFIR. In the most serious cases, an insurer may be placed in receivership.

In monitoring the financial condition of foreign insurers (792 insurers), significant reliance is placed on the domiciliary state regulator to perform an in-depth financial analysis and take any appropriate regulatory action. Therefore minimal analysis is performed on the foreign insurers to identify those that may be exhibiting problematic signs such as not meeting Michigan's minimum capital and surplus requirements. The financial condition of the five licensed multiple employer welfare arrangements (MEWA) is also monitored.

OFIR takes more stringent regulatory action against insurers that are no longer safe, reliable and entitled to public confidence. These actions include seizure, rehabilitation or liquidation. The Division performs these functions in accordance with statutory authority including marshaling of assets of insolvent insurers, evaluation of claims filed by all interested parties, and investment and conservation of all assets to ensure maximum distribution to all policyholders, claimants and creditors of the insolvent insurer. The cost of performing these functions is billed to the insurance company estates when there are sufficient assets.

The following domestic insurers are monitored.

American Commercial Liability Ins. Co.	Liquidation	March 2, 1992
American Way Casualty Company	Rehabilitation	April 16, 1993
American Way Life Insurance Co.	Rehabilitation	April 16, 1993
Cadillac Insurance Company	Liquidation	January 2, 1990
First Security Casualty Company	Liquidation	April 28, 1997
Great Lakes American Life Ins. Co.	Receivership	Nov. 16, 1990
Lincoln Mutual Casualty Company	Liquidation	August 29, 1997
Mid-America Life Assurance Company	Receivership	Nov. 16, 1990
Omnicare Health Plan	Liquidation	Oct. 28, 2004
The Wellness Plan	Rehabilitation	July 1, 2003
Ultimed HMO of Michigan	Liquidation	April 10, 2006
National Foot Care Program, Inc.	Rehabilitation	October 18, 2007

In addition, Confederation Life Insurance Company, which was placed in liquidation on August 12, 1994, is handled by an outside Deputy Receiver. All the above estates are open. The most recent receivership proceedings are on HMOs and an AFDS where there is no guaranty fund protection. The policyholders and service providers are the primary creditors.

A significant portion of the market conduct regulatory oversight of HMOs and AFDS except for rates, complaints and Patients Right to Independent Review Act (PRIRA) is handled within this division. The HMO Act (Chapter 35 of the Michigan Insurance Code of 1956) provides for policy forms, provider agreements, service areas, and complaint and grievance procedures to be reviewed and prior approval of the Commissioner before they are effective. Managed care entities' quality assessment and quality improvement programs are evaluated. Site visits to review quality of care and perform other market regulation oversight on 89% of the domestic health maintenance organizations, and 50% of the domestic AFDS entities are conducted.

Health Plans Division

The Health Plans Division is responsible for the non-financial regulation of Blue Cross Blue Shield of Michigan (BCBSM) as authorized under Public Act 350 of 1980. This includes review and approval of BCBSM's rates and rating systems, benefit contracts, and provider class plans. This division is also responsible for holding review and determination proceedings for medical providers contesting the results of audits conducted by BCBSM. The division ensures that BCBSM rates comply with statutory standards. Benefit certificates are examined to assure that coverage meets the criteria established in the statute and to determine if the certificates clearly set forth the coverage being provided. BCBSM's provider contracts and reimbursement arrangements are evaluated against the statutory goals of access, quality, and cost of health care services.

Non-financial regulatory functions authorized under the Michigan Insurance Code of 1956 for long-term care insurance, Medicare supplemental insurance, individual health and disability insurance, and life insurance are performed by this Division. These include evaluation of rates and forms issued by Multiple Employer Welfare Arrangements (MEWAs), as well as regulation of HMOs and non-profit health care corporations.

Staff review inquiries and complaints regarding benefits and other health-related issues and administer the external appeals program under the Patient's Right to Independent Review Act (PRIRA) for subscribers of health plans. Complaints filed by Medicaid providers under the timely claims payment program under 2000 PA 187 are also reviewed. External appeals for claims denied by HMOs, BCBSM, insurers, and Medicaid providers are evaluated.

Consumer Services Division

The Consumer Services Division is responsible for many of the internal and external communications for OFIR, complaint handling, investigations and market conduct reviews of insurance companies and for matters relating to facilities and telecommunications. The division's goals are to provide a consistent, accurate message throughout all OFIR communication, whether written or oral, internal or external, provide OFIR customers with excellent customer service and ensure regulated entities deliver on their promises to Michigan consumers.

Staff assist consumers who have experienced difficulties or who have questions regarding financial and insurance services or products. Every customer receives a thorough and fair review of their complaint that is filed with OFIR in accordance with statutes, and staff work to ensure that each and every consumer fully understands the final outcome. Informal reviews are conducted as required under the Essential Insurance Act.

A Communications Center is staffed to handle the initial contact for persons telephoning OFIR. Staff strive to deliver personal service on each call. Calls are answered, screened, responded to and or routed. The answers to questions are provided through data retrieval by staff.

How well the insurance market as a whole, and the individual companies that make up that market, are meeting consumers needs is assessed and appropriate action taken when problems are identified. Alleged violations by insurance licensees of the Michigan Insurance Code of 1956 and related state laws are investigated. If the allegations are supported by evidence, the cases are referred to the OGC with recommendation for further enforcement action, which could include license revocation, license suspension, restitution, fines and civil penalties. Investigations are confidential under Section 1249 of the Insurance Code and are not publicly disclosable. Staff performing preliminary reviews of insurers in areas of regulatory concern participate in the NAIC's market analysis program.

The division manages the flow of consumer information to the public, along with the content of two OFIR web sites. There is focus on partnering with local, state, and federal agencies in educating Michigan consumers about financial literacy. These efforts have generated increased consumer awareness of OFIR-regulated entities. OFIR financial education materials are distributed to the public via websites, in financial literacy programs and in connection with consumer assistance services. They also provide consumers a link with other agencies and organizations when their requests for assistance fall outside the regulatory parameters of OFIR. Compliance with internal audit, facilities management, mail distribution, telecommunications, and recycling are also the responsibility of this section.

Regulatory Compliance Division

The Regulatory Compliance Division maintains consumer confidence in producers and sellers of financial and insurance products and in the products themselves through licensure and through protecting Michigan consumers from a wide range of improper and unlawful practices under the statutes, codes, and related laws that OFIR enforces.

The testing and licensing of applicants for insurance producer, agency, solicitor, counselor, and third party administrator licenses is administered by this division. It monitors the qualifications of the applicants and licensees, and follows up when it learns a licensee's qualifications may be impaired either through failing to complete the required continuing education requirements or by an administrative action.

Consumer protection is focused on reviewing insurance rules, rates, and policy contracts filed with OFIR by insurers doing business in Michigan to ensure that the language meets statutory requirements. Policy language is also reviewed to ensure it includes (or excludes) specific provisions for particular types of insurance contracts; does not contain inconsistent, ambiguous, or misleading clauses; and that property and casualty rates are not excessive, inadequate, or unfairly discriminatory.

Department of Attorney General

The Attorney General represents the Commissioner in litigation. Lawsuits served on the Commissioner are immediately referred to the OGC, which, in turn, transmits them to the OFIR-assigned Assistant Attorneys General. The OGC consults with the Assistant Attorneys General on litigation, major administrative cases, declaratory rulings, rules, and interpretations of the statutes the Commissioner administers.

Department of Information Technology

The Department of Technology (DIT) provides all technological services to OFIR and to all of the departments and agencies in the State of Michigan. The OFIR financial conduct, health care and health insurance regulatory activities rely heavily on the services provided by DIT to operate efficiently and effectively. DIT provides services in the following seven main areas:

- Office of Enterprise Security ensures the confidentiality, integrity and availability of data and assesses and manages risk through security awareness. It also resolves problem requests and questions related to end-user computers and related equipment.
- Office Automation Services provides a single desktop image for users, monitors, distributes and updates the desktop software remotely, and replaces the hardware as necessary.
- Bureau of Strategic Policy creates and manages the State's technology-focused roadmap to service quality and delivery.

- Data Center Operations provides centralized Data Center Hosting services including acquisitions of hardware and software, operational and technical support for a variety of mainframes and servers.
- Technical services coordinates with state agencies for the development, implementation, and maintenance of technology supporting state agencies.
- Telecommunications Division provides services such as networks, voice – including telephone, audio, video and web conferencing – and the Vendor Private Network, which enable staff in travel status, such as the Insurance Examination staff, to connect to the OFIR databases and the State's network.

New Insurance Regulatory Policy

The Commissioner is holding a public hearing to receive written and oral comments that will assist him in determining whether to require insurers to file policy forms, rules, and rates electronically via the System for Electronic Rate and Form Filing (SERFF) and also whether to amend or modify Exemption Order 97-010-M to require insurers to submit additional policy forms to OFIR for prior approval before they are utilized in the market. The hearing is scheduled for 9:00 a.m. on May 29, 2008 at the Michigan Library and Historical Center in Lansing, Michigan.